

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBYN COLEMAN,

Plaintiff,

v.

EVERGREEN PUBLIC SCHOOLS,

Defendant.

CASE NO. C18-5556 RBL

ORDER

THIS MATTER is before the Court on Plaintiff Coleman's Motion for Reconsideration [Dkt. # 23] of the Court's Order [Dkt. # 7] denying her Motion to Appoint Counsel [Dkt. # 1-3].

The Motion is DENIED for several reasons. First, the motion is untimely. LCR 7(h)(2) requires a motion for reconsideration to be filed within 14 days of the order it seeks to overturn.

The order at issue here was filed in early August.

Second, Plaintiff Coleman has not met standard for Reconsideration:

Under Local Rule 7(h)(1), motions for reconsideration are disfavored, and will ordinarily be denied unless there is a showing of (a) manifest error in the ruling, or (b) facts or legal authority which could not have been brought to the attention of the court earlier, through reasonable diligence. The term "manifest error" is "an error that is plain and indisputable, and

1 that amounts to a complete disregard of the controlling law or the credible evidence in the  
2 record.” Black’s Law Dictionary 622 (9th ed. 2009).

3 Reconsideration is an “extraordinary remedy, to be used sparingly in the interests of  
4 finality and conservation of judicial resources.” *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d  
5 877, 890 (9th Cir. 2000). “[A] motion for reconsideration should not be granted, absent highly  
6 unusual circumstances, unless the district court is presented with newly discovered evidence,  
7 committed clear error, or if there is an intervening change in the controlling law.” *Marlyn*  
8 *Natraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009). Neither  
9 the Local Civil Rules nor the Federal Rule of Civil Procedure, which allow for a motion for  
10 reconsideration, is intended to provide litigants with a second bite at the apple. A motion for  
11 reconsideration should not be used to ask a court to rethink what the court had already thought  
12 through — rightly or wrongly. *Defenders of Wildlife v. Browner*, 909 F.Supp. 1342, 1351 (D.  
13 Ariz. 1995). Mere disagreement with a previous order is an insufficient basis for reconsideration,  
14 and reconsideration may not be based on evidence and legal arguments that could have been  
15 presented at the time of the challenged decision. *Haw. Stevedores, Inc. v. HT & T Co.*, 363 F.  
16 Supp. 2d 1253, 1269 (D. Haw. 2005). “Whether or not to grant reconsideration is committed to  
17 the sound discretion of the court.” *Navajo Nation v. Confederated Tribes & Bands of the Yakima*  
18 *Indian Nation*, 331 F.3d 1041, 1046 (9th Cir. 2003).

19 Finally, Coleman has not met the standard for appointment of counsel at public expense,  
20 in any event. No constitutional right to counsel exists for an indigent plaintiff in a civil case  
21 unless the plaintiff may lose his physical liberty if he loses the litigation. *See Lassiter v. Dept. of*  
22 *Social Servs.*, 452 U.S. 18, 25 (1981). However, pursuant to 28 U.S.C. § 1915(e)(1), the Court  
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1 has the discretion to appoint counsel for indigent litigants who are proceeding IFP. *United States*  
2 *v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995).

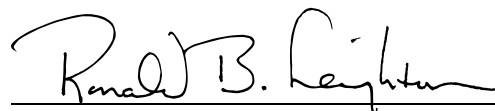
3 The Court will appoint counsel only under “exceptional circumstances.” *Id.*; *Wilborn v.*  
4 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). “A finding of exceptional circumstances  
5 requires an evaluation of both the likelihood of success on the merits and the ability of the  
6 plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved.”  
7 *Wilborn*, 789 F.2d at 1331 (internal quotations omitted). These factors must be viewed together  
8 before reaching a decision on whether to appoint counsel under § 1915(e)(1). *Id.*

9 While she is proceeding *in forma pauperis*, Coleman has not even argued, much less  
10 demonstrated, a likelihood of success on the merits.

11 The Motion for Reconsideration is DENIED.

12 IT IS SO ORDERED.

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14 Dated this 9<sup>th</sup> day of November, 2018.

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17 Ronald B. Leighton  
18 United States District Judge  
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